

November 1, 2005

Via Electronic Filing

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Shared Use of the 2496-2500 MHz Band Between Industrial, Scientific and Medical (“ISM”) Devices and Broadband Radio Service (“BRS”); IB Docket No. 02-364 and ET Docket No. 00-258; WRITTEN EX PARTE COMMUNICATION of the Association of Home Appliance Manufacturers (“AHAM”)

Dear Ms. Dortch:

Pursuant to the provisions of Section 1.1206 of the rules of the Federal Communications Commission (“FCC”), AHAM submits this correspondence for inclusion in the record of the above referenced proceedings. AHAM provides this letter in response to the October 18, 2005 letter filed by Sprint Nextel (“Sprint”) and the October 19, 2005 Notice of Ex Parte Communication submitted by the Wireless Communications Association International, Inc. (“WCA,” and collectively with Sprint, the “BRS Parties”) following up WCA’s October 18, 2005 meeting with Fred Campbell, acting Legal Advisor to Chairman Martin. The BRS Parties continue to distort the record in this proceeding, and have now misrepresented AHAM’s position in a previous FCC proceeding. In addition, Sprint incorrectly addresses the technical arguments AHAM has presented to the FCC.

According to Sprint, AHAM has “repeatedly claimed that ‘no problem’ exists between low-power mobile broadband services such as BRS-1 and ISM devices.” Sprint’s characterization of AHAM’s position is inaccurate. AHAM has repeatedly pointed out that the BRS Parties have consistently failed to demonstrate that ISM devices will cause harmful interference to BRS systems. In light of this failure, AHAM has argued that the FCC should not, contrary to international practice, impose regulations that would potentially cause the complete redesign of microwave ovens. If interference from ISM devices to the BRS service was actually demonstrated, it would then be a matter the FCC would be required to address. To date, the BRS Parties’ concerns have been without any legitimate basis.

Because they mischaracterize AHAM’s arguments regarding harmful interference, the BRS Parties now believe that they have uncovered an inconsistency between AHAM’s current position and comments AHAM submitted in 1999 in the FCC’s Docket No. 99-231 proceeding. Citing a sentence fragment from those comments, the BRS Parties assert that AHAM has admitted that there will be harmful interference from ISM devices to the BRS service. However,

the BRS Parties have drawn an unwarranted conclusion from AHAM's previous comments by failing to provide the context of the FCC's 1999 proceeding. As the FCC is aware, its Notice of Proposed Rule Making in the Docket No. 99-231 proceeding related to the promulgation of regulations designed to permit more full use of spread spectrum technologies in devices regulated under Part 15 of the FCC's rules. Unlicensed Part 15 devices, using spread spectrum technologies or otherwise, generally operate with lower power than the 2 watt BRS devices permitted by the FCC's rules. Therefore, AHAM's concern about potential interference to unlicensed Part 15 spread spectrum devices hardly translates to an admission that there will be harmful interference to licensed BRS devices.

Moreover, the BRS Parties fail to disclose the primary purpose of AHAM's 1999 comments. AHAM submitted those comments to remind the FCC that it "should continue to make clear both to unlicensed device producers, and their consumers, that the unlicensed devices must accept harmful interference from ISM equipment." AHAM continues to believe that the FCC should make it clear that the use of the 2400-2500 MHz band, allocated internationally for ISM operations, by other services is secondary to ISM devices, and it has repeatedly said as much in this proceeding. Therefore, contrary to the BRS Parties' assertions, AHAM's 1999 position is no different from the arguments it made in this proceeding.


AHAM also disagrees with the technical bases of Sprint's arguments. Sprint asserts that "the differences between peak and average values in this context are so small as to be meaningless." Sprint is incorrect. In fact, because microwave ovens generally produce impulses that vary widely in frequency and amplitude during oven operation; the instantaneous peak can be as much as 20 dB larger than average in a given frequency.

Sprint also attempts to defend its use of a 1600 meter limit for ovens with power over 500 watts by asserting that AHAM ignored footnote 1 of Section 18.305 of the FCC's rules. AHAM did not. That footnote describes an upper boundary on the limit, used only after power exceeds 2000 watts. If the FCC adopted Sprint's interpretation of the footnote, the limit for 501 watts would be higher (by 6dB) than the limit for 499 watts, a result that is plainly contrary to the intention of the regulation.

Based on the foregoing, AHAM continues to urge the FCC to reject the petitions for reconsideration of the decision in these proceedings and retain the regulatory scheme, used on a world-wide basis, for the band 2400-2500 MHz.

If there are any questions regarding this matter, please contact the undersigned directly.

Sincerely,

A handwritten signature in dark ink, reading "David B. Calabrese". The signature is fluid and cursive, with the first name "David" and last name "Calabrese" clearly legible.

David B. Calabrese
Vice President
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